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10/029,804	12/27/2001	Jeroen Heuvelman	US 018212	5512

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EXAMINER

LAMBRECHT, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/029,804

Applicant(s)

HEUVELMAN, JEROEN

Examiner

Christopher M. Lambrecht

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 6, 7, 10, 11, and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel (of record) in view of Yuen (Yuen et al., US20010042246A1).

With regard to claim 1, 10, and 16-19, Maissel discloses an apparatus, corresponding method, corresponding EPG comprising means (col. 9, lines 61-66), corresponding software application (col. 10, lines 43-48), and corresponding data service (col. 15, lines 15-40) for generating a recommendation for a second electronic content to a user, while the user is consuming a first electronic content, wherein the recommendation is presented to the user (displaying an alert, col. 14, lines 6-10). Maissel fails to disclose the recommendation is presented in response to detection that the first content is in between two segments.

In an analogous art, Yuen discloses a notification (icon displayed on a television screen) presented in response to detection that a first content (content currently being watched) is in between two segments (during a telecast of an advertisement, pg. 1, ¶17; detection that the first content is in between two segments is inherent, evidenced by the fact that the system is capable of identifying the condition

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“during a telecast of an... advertisement”), for the purpose of providing additional programming information to the user regarding related programming (§20).

Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel to include a notification presented in response to detection that a first content is in between two segments, for the purpose of providing additional programming information to the user regarding related programming in a system for recommending a second programming to a user.

With regard to claims 2 & 11, Maissel and Yuen together disclose the claimed subject matter. In particular, Maissel discloses the recommendation depends on data representative of at least one of: a user profile (col. 13, lines 34-41), an explicit user request (col. 19, lines 45-50), or a recent history of consumed content (col. 12, lines 23-35).

With regard to claim 3, Maissel and Yuen together disclose the claimed subject matter. In particular, Maissel discloses the second content information in the recommendation comprises multiple content items and wherein the items are offered to the user in order of relevance (col. 20, lines 28-44).

With regard to claim 6, Maissel and Yuen together disclose the claimed subject matter. In particular, Maissel discloses the recommendation for the second content is also presented to the user at a moment at or around a time of a trigger (traversing a threshold) that is derived from the second content (traversing a 30-minute threshold relating to the broadcast of an up-coming news program, col. 13, lines 25-35).

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With regard to claims 7 and 14, Maissel and Yuen together disclose the claimed subject matter. In particular, Maissel discloses rendering the recommendation or a notification thereof using a portable wireless device (col. 15, lines 33-36).

With regard to claim 15, Maissel and Yuen together the claimed subject matter. In particular, Maissel discloses rendering the recommendation or a notification thereof that comprises a generator for generating a graphical representation (105, fig. 1) under control of the recommendation (col. 14, lines 6-10 & col. 15, lines 29-31, wherein “displaying” an alert comprises a graphical representation).

With regard to claim 20, Maissel and Yuen together disclose the claimed subject matter. In particular, Maissel discloses using the Internet for supply of the recommendation (col. 8, lines 59-65).

With regard to claim 21, Maissel and Yuen together disclose the claimed subject matter. In particular, Yuen discloses the segments of the first content comprise the beginning and end of a commercial (during a telecast of an advertisement, ¶17, corresponds to “in between segments” wherein “segments of the first content comprise the beginning and end of a commercial”, as recited in claims 1 and 21).

3. Claims 4 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel and Yuen as applied to claims 1 and 10 above, and further in view of Dudkiewicz ‘463 (of record).

With regard to claims 4 and 12, Maissel and Yuen together disclose an apparatus and corresponding method for recommending electronic content to a user. However, Maissel and Yuen do not

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disclose the progress is determined by at least one of following: meta-data of the first or second content, and from screening of at least the first or the second content.

Dudkiewicz '463 discloses the use meta-data to be processed by the client device for the purpose of describing the time and duration of the programming event (pg. 5, ¶54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel and Yuen to include meta-data to be processed by the client device, as taught by Dudkiewicz '463, for the purpose of determining the time and duration of the programming segments.

4. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel and Yuen as applied to claims 1 and 10 above, and further in view of Schaffer (of record).

With regard to claims 5 and 13, Maissel and Yuen together disclose an apparatus and corresponding method for recommending electronic contents to a user. In particular, Maissel discloses said apparatus and corresponding method comprise enabling the user, upon presentation of the recommendation to: request additional information on the second content (col. 21, lines 22-28); consume the second content upon availability (col. 19, lines 35-39); initiate a recording of the second content (col. 14, lines 16-19). However, Maissel and Yuen do not disclose upon presentation of the recommendation, to: request another recommendation.

In an analogous art, Schaffer discloses a system for recommending electronic content to the user comprising enabling the user to request a next suggestion for the purpose of revealing further programming recommendations to the user (pg. 4, ¶64,70).

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Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel and Yuen to include allowing the user to request more suggestions, as taught by Schaffer, for the purpose of revealing further programming recommendations to the user in an electronic programming guide system.

5. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel and Yuen as applied to claim 1 above, and further in view of Dudkiewicz '474 (of record).

With regard to claim 8, Maissel and Yuen together disclose an apparatus and corresponding method for recommending electronic content to a user. Maissel and Yuen do not disclose generating an audible tune that is substantially representative of the second content.

In analogous art, Dudkiewicz '474 discloses providing a computer-generated spoken message for the purpose of alerting user to the presence of a new recommendation using audio (pg. 12, ¶108).

Consequently, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Maissel and Yuen to include the audible alert as taught by Dudkiewicz '474 for the purpose of alerting the user to the presence of a new recommendation using audio, thereby enhancing the program recommendation system.

With regard to claim 9, Maissel, Yuen, and Dudkiewicz '474 disclose the claimed subject matter. In particular, Maissel discloses enabling the user to accept the recommendation representative of the second content (col. 19, lines 35-39).

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*Response to Arguments*

6. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.



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8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Lambrecht whose telephone number is (703) 305-8710. The examiner can normally be reached on 9:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the primary examiner, Christopher Grant can be reached on (703) 305-4755. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Christopher M. Lambrecht  
Examiner  
Art Unit 2611

CML

  
CHRIS GRANT  
PRIMARY EXAMINER